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8
9 **IN THE UNITED STATES DISTRICT COURT**
FOR THE DISTRICT OF NEVADA

10 CHARLES NELSON,
11 Petitioner,
12 vs.
13 TIMOTHY FILSON, *et al.*,
14 Respondents.

Case No. 3:18-cv-00029-RCJ-CLB

**ORDER GRANTING UNOPPOSED
MOTION FOR ENLARGEMENT
OF TIME (FIRST REQUEST)**

15 Respondents, by and through counsel, Aaron D. Ford, Attorney General of the State of Nevada,
16 hereby respectfully move this Court for an order granting a sixty (60) day enlargement of time, to and
17 including March 5, 2021, to reply in support of the motion to dismiss (ECF Nos. 44, 47), currently due
18 January 4, 2021, and a fifth-three (53) day enlargement of time, also to and including March 5, 2021, to
19 respond to Nelson's motion for an evidentiary hearing (ECF No. 48), currently due January 11, 2021.

20 This motion is based upon the provisions of Rule 6(b) of the Federal Rules of Civil
21 Procedure and the attached Declaration of Counsel, as well as all other papers, documents, records,
22 pleadings and other materials on file herein.

23 There has been no prior enlargement of Respondents' time to file said responses, and this motion
24 is made in good faith and not for the purposes of delay.

25 RESPECTFULLY SUBMITTED this 4th day of January, 2021.

26 AARON D. FORD
27 Attorney General

28 By: /s/ Heather D. Procter
HEATHER D. PROCTER (Bar. No. 8621)
Chief Deputy Attorney General

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10 CHARLES NELSON,

Case No. 3:18-cv-00029-RCJ-CLB

11 Petitioner,

DECLARATION OF COUNSEL

12 vs.

13 TIMOTHY FILSON, *et al.*,

14 Respondents.

15 STATE OF NEVADA)
16 : ss.
CARSON CITY)

17 I, HEATHER D. PROCTER, hereby states, based on personal knowledge and/or information and
18 belief, that the assertions of this declaration are true:

19 1. I am the Chief Deputy Attorney General of the Post-Conviction Division of the Nevada
20 Attorney General's Office, and I make this declaration on behalf of Respondents' motion for enlargement
21 of time.

22 2. By this motion, I am requesting a sixty (60) day enlargement of time, to and including March
23 5, 2021, to reply in support of the motion to dismiss (ECF Nos. 44, 47), currently due January 4, 2021, and
24 a fifth-thirty (53) day enlargement of time, also to and including March 5, 2021, to respond to Nelson's
25 motion for an evidentiary hearing (ECF No. 48), currently due January 11, 2021.

26 3. This is my first request for an enlargement of time.

27 4. As the motion for evidentiary hearing is directly linked to the motion to dismiss litigation,
28 Respondents seek to have the replies to both due the same day.

5. Since the filing of Nelson’s opposition, I have been involved in defending federal and state petitions, including *Flanagan v. Gittere*, 2:09-cv-0085-KJD-EJY (death penalty); *Floyd v. Gittere*, 2:06-cv-0471-RFB-CWH (death penalty); *Hines v. Williams*, 2:19-cv-1465-APG-VCF; *Leonard v. Gittere*, 2:99-cv-0360-MMD-DJ (death penalty); and *Rippo v. Gittere*, 2:07-cv-0507-APG-VCF (death penalty). I also took annual leave, in addition to holiday leave, for the Thanksgiving, Christmas and New Year’s holidays. During the pandemic, the Post-Conviction Division’s workload has increased to encompass not only COVID-19-related litigation, but an increase in the number of evidentiary hearings ordered by this Court as referenced above. As the Chief of the Post-Conviction Division, I have had to respond to numerous issues with cases, deputies, and other division-related issues due to COVID-19, including training a new deputy who started in August, and training other deputies as they take on increasingly complex federal habeas matters. In addition, all State of Nevada employees must take one day of furlough each month, currently from January to June 2021, though that will likely increase following the 2021 Legislature. Finally, a deputy attorney general in the Carson Office recently resigned, and I will need to cover her cases until a new deputy can be hired and trained. As such, I request a sixty (60) day enlargement of time, to and including March 5, 2021, to reply in support of the motion to dismiss, and a fifth-three (53) day enlargement of time, also to and including March 5, 2021, to respond to Nelson’s motion for an evidentiary hearing.

6. This motion for enlargement of time is made in good faith and not for the purpose of unduly delaying the ultimate disposition of this case.

7. I contacted counsel for Nelson, Mario Valencia, who has no objection to this enlargement. Pursuant to 28 U.S.C. § 1746, Declarant herein certifies, under penalty of perjury, that the foregoing is true and correct.

/s/ Heather D. Procter

HEATHER D. PROCTER

ORDER

IT IS SO ORDERED.

Dated this 4th day of January, 2021.


R. Jones
DISTRICT COURT JUDGE